

be eligible to receive drawback. Withdrawal of general partners is covered by § 17.72(d).

(b) *Limited partners.* Changes in the membership of a limited partnership requiring amendment of the certificate but not dissolution of the partnership are not changes that incur liability to additional special tax.

§ 17.77 Reincorporation.

When a new corporation is formed to take over and conduct the business of one or more corporations that have paid special tax, the new corporation shall pay special tax and obtain a stamp in its own name.

CHANGE IN NAME OR STYLE

§ 17.81 General.

A person who paid special tax is not required to pay a new special tax by reason of a mere change in the trade name or style under which the business is conducted, nor by reason of a change in management which involves no change in the proprietorship of the business.

§ 17.82 Change in capital stock.

A new special tax is not required by reason of a change of name or increase in the capital stock of a corporation, if the laws of the State of incorporation provide for such changes without creating a new corporation.

§ 17.83 Sale of stock.

A new special tax is not required by reason of the sale or transfer of all or a controlling interest in the capital stock of a corporation.

REFUND OF SPECIAL TAX

§ 17.91 Absence of liability, refund of special tax.

The special tax paid may be refunded if it is established that the taxpayer did not file a claim for drawback for the period covered by the special tax stamp. If a claim for drawback is filed, the special tax may be refunded if no drawback is paid or allowed for the period covered by the stamp.

§ 17.92 Filing of refund claim.

Claim for refund of special tax must be filed on ATF Form 2635 (5620.8), Claim—Alcohol, Tobacco and Firearms Taxes. The claim must set forth in detail sufficient reasons and supporting facts of the exact basis of the claim. The special tax stamp shall be attached to the claim.

(68A Stat. 791 (26 U.S.C. 6402))

[T.D. ATF-379, 61 FR 31412, June 20, 1996, as amended by T.D. ATF-436, 66 FR 5471, Jan. 19, 2001]

§ 17.93 Time limit for filing refund claim.

A claim for refund of special tax shall not be allowed unless filed within three years after the payment of the tax.

(68A Stat. 808 (26 U.S.C. 6511))

Subpart E—Bonds and Consents of Sureties

§ 17.101 General.

A bond shall be filed by each person claiming drawback on a monthly basis. Persons who claim drawback on a quarterly basis are not required to file bonds. Bonds shall be prepared and executed on ATF Form 5154.3, Bond for Drawback Under 26 U.S.C. 5131, in accordance with the provisions of this part and the instructions printed on the form. The bond requirement of this part shall be satisfied either by bonds obtained from authorized surety companies or by deposit of collateral security. Appropriate ATF officers are authorized to approve all bonds and consents of surety required by this part.

§ 17.102 Amount of bond.

The bond shall be a continuing one, in an amount sufficient to cover the total drawback to be claimed on spirits used during any quarter. However, the amount of any bond shall not exceed \$200,000 nor be less than \$1,000.

§ 17.103 Bonds obtained from surety companies.

(a) The bond may be obtained from any surety company authorized by the

§ 17.104

Secretary of the Treasury to be a surety on Federal bonds. Surety companies so authorized are listed in the current revision of Department of the Treasury Circular 570 (Companies Holding Certificates of Authority as Acceptable Sureties on Federal Bonds and as Acceptable Reinsuring Companies), and subject to such amendatory circulars as may be issued from time to time. Bonds obtained from surety companies are also governed by the provisions of 31 U.S.C. 9304, and 31 CFR part 223.

(b) A bond executed by two or more surety companies shall be the joint and several liability of the principal and the sureties; however, each surety company may limit its liability, in terms upon the face of the bond, to a definite, specified amount. This amount shall not exceed the limitations prescribed for each surety company by the Secretary, as stated in Department of the Treasury Circular 570. If the sureties limit their liability in this way, the total of the limited liabilities shall equal the required amount of the bond.

(c) Department of the Treasury Circular No. 570 is published in the FEDERAL REGISTER annually on the first workday in July. As they occur, interim revisions of the circular are published in the FEDERAL REGISTER. Copies of the circular may be obtained from: Surety Bond Branch, Financial Management Service, Department of the Treasury, Washington, DC 20227.

(Sec. 1, Pub. L. 97-258, 96 Stat. 1047 (31 U.S.C. 9304))

§ 17.104 Deposit of collateral.

Except as otherwise provided by law or regulations, bonds or notes of the United States, or other obligations which are unconditionally guaranteed as to both interest and principal by the United States, may be pledged and deposited by principals as collateral security in lieu of bonds obtained from surety companies. Deposit of collateral security is governed by the provisions of 31 U.S.C. 9303, and 31 CFR part 225.

(Sec. 1, Pub. L. 97-258, 96 Stat. 1046 (31 U.S.C. 9301, 9303))

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§ 17.105 Filing of powers of attorney.

(a) *Surety companies.* The surety company shall prepare and submit with each bond, and with each consent to changes in the terms of a bond, a power of attorney in accordance with §17.6, authorizing the agent or officer who executed the bond or consent to act in this capacity on behalf of the surety. The power of attorney shall be prepared on a form provided by the surety company and executed under the corporate seal of the company. If other than a manually signed original is submitted, it shall be accompanied by certification of its validity.

(b) *Principal.* The principal shall execute and file a power of attorney, in accordance with §17.6, for every person authorized to execute bonds on behalf of the principal.

(Sec. 1, Pub. L. 97-258, 96 Stat. 1047 (31 U.S.C. 9304, 9306))

§ 17.106 Consents of surety.

The principal and surety shall execute on ATF Form 1533 (5000.18), Consent of Surety, any consents of surety to changes in the terms of bonds. Form 1533 (5000.18) shall be executed with the same formality and proof of authority as is required for the execution of bonds.

§ 17.107 Strengthening bonds.

Whenever the amount of a bond on file and in effect becomes insufficient, the principal may give a strengthening bond in a sufficient amount, provided the surety is the same as on the bond already on file and in effect; otherwise a superseding bond covering the entire liability shall be filed. Strengthening bonds, filed to increase the bond liability of the surety, shall not be construed in any sense to be substitute bonds, and the appropriate ATF officer shall not approve a strengthening bond containing any notation which may be interpreted as a release of any former bond or as limiting the amount of either bond to less than its full amount.

§ 17.108 Superseding bonds.

(a) The principal on any bond filed pursuant to this part may at any time replace it with a superseding bond.